

Summary of 8-1-12, 10-31-12, and 12-13-12 interviews of Elsie Brenneman

Interviews and summary by Thomas M. Patton, Deputy Attorney General

Preface: Elsie Brenneman was initially interviewed on August 1, 2012. Follow-up interviews were conducted on October 31 and December 13, 2012. The transcripts of Brenneman's three interviews are respectively cited to herein as EBtr1, EBtr2, and EBtr3.

State Employment History

Elsie Brenneman is currently the chief budget officer for the Department of Parks and Recreation. Brenneman has held the position since February 2011. She previously served four and one-half years as the budget officer for the Department of Personnel Administration. Prior to that she had been the budget officer some six years for the Integrated Waste Management Board. She started her state career in 1993 as an office assistant with Integrated Waste Management. (EBtr1, pp. 3-8.)

Disparities in State Parks and Recreation Fund Balance Reports

1. Initial discovery / review of financial documentation

By April 2011 Brenneman began studying the agency's fund balances as reported to the Department of Finance (DOF) for the Governor's budget to educate herself about the agency's finances. Brenneman also looked at the accounting reports being provided through the Parks accounting office to the State Controller's Office (SCO). Brenneman noticed there was a discrepancy between the balances reported to the DOF and SCO with regard to the State Parks and Recreation Fund (SPRF). (EBtr1, pp. 10-11, 29.)

Brenneman examined the Parks accounting reports as summarized and posted on the SCO's website, and confirmed they were consistent with the year-end reports Parks chief accounting officer Dorothy Kroll had submitted to the SCO. Brenneman compared the accounting reports to the budget figures reflected in the Governor's budget, as posted through the DOF's website, and saw that the balance numbers reflected for the SPRF were \$20 million dollars off. (EBtr1, pp. 11-15.)

Brenneman then reviewed the SPRF balances reported to the DOF and SCO the previous one or two years and saw the same disparity. She reports that she was uncertain if perhaps the disparity resulted from a calculation error in the budget documents. She noticed little things

were reported incorrectly on the SPRF fund condition budget statement, but nothing explained a \$20 million dollar discrepancy. She states that the past financial reports she reviewed indicate that revenue and expenditure figures reported in budget documents are in accord with what has been reported in year-end accounting statements to the SCO. She has thus ascertained that the discrepancy in balances involves an error that has been carried forward in time and has been contained in the beginning fund balance number, and that whatever caused the disparity must have occurred some number of years ago. (EBtr1, pp. 14-15, 77-78.)

Brenneman believes the discrepancy is the result of an unintended error, most likely in the calculations for prior-year adjustments. Brenneman has not, however, further investigated to determine the cause of the disparity, when the reporting error or errors began, or the length of time the SPRF balances have been disparately reported. (EBtr1, pp. 14-15, 46, 78-80.) She indicated that determining the original cause of the disparity, which the DOF's spreadsheet¹ reveals grew significantly between 1997 and 2003, may not be possible. It would require a review of all relevant accounting records in order to recreate the fund condition statements submitted over the years to the budget office. Brenneman states this is probably not possible because, although the Parks budget office has the final versions of the fund condition statements submitted over the years to the DOF, the archived records do not include all the backup material necessary to see how each fund condition component was calculated. (EBtr1, pp. 46-48.) In particular, she does not believe all backup documentation needed to re-examine prior-year adjustment calculations made and reported in years past is available. (EBtr3, pp. 6-7.)

Brenneman stated that the budget office has ample backup documentation for the past two years, and some backup documentation for the previous three years. Brenneman stated it was evidently not the budget office's standard practice to retain all fund condition backup material. She understands that the previous budget officers prepared the budget fund condition statements personally. Brenneman's subordinate staff advises her they were not involved in preparing fund condition statements for the SPRF and do not know whether or where backup material was saved. Brenneman states that her budget staff is now involved in the preparation of fund condition statements and is retaining the backup material. (EBtr1, pp. 47-55.)

¹ Exhibit A attached.

In her second interview, Brenneman advised that after she came to Parks she ordered a clean up day in the budget office because her staff all had stacks and piles of paper on their desks, and all file cabinets were full. She reports that she was shifting staff assignments and wanted staff to identify and eliminate duplicate files. Brenneman states that she only ordered that duplicate records be eliminated, and otherwise no other files have been discarded. In particular, she noted that five four-drawer file cabinets full of budget records and historical documentation reportedly kept by former budget officer Becky Brown had been moved from Brenneman's personal office to a different cubicle location, but states that the contents remain undisturbed. This interviewer was shown the cabinets, and briefly looked in three to examine their contents. It appeared the cabinets were indeed full of historical material, including past budget reports and park brochures. There is no clear indication the contents of the five file cabinets maintained by Brown have been disturbed. (EBtr2, pp. 2-8.)

2. Reporting and discussing the SPRF disparity

a. Discussions with Manuel Lopez and David Saxby

Brenneman states that upon discovering the SPRF discrepancy in April 2011 she spoke with then-administrative services deputy director Manuel Lopez and his assistant deputy director, David Saxby, about the issue. Brenneman reports that Lopez stated he knew about the fund balance discrepancy. Brenneman states that Lopez further advised her the Department was not going to correct it as it was already dealing with general fund budget cuts and there was concern that revealing the millions undisclosed in the SPRF budget fund condition statement would lead to additional general fund cuts. (EBtr1, pp. 18-20.)

Brenneman reports that she had multiple conversations about the discrepancy with both Lopez and Saxby from April 2011 through the end of the budget development process in or about November 2011. She reports that she wanted to correct the discrepancy and was trying to figure out the best way to do so by making a change, or at a minimum a series of changes, to the prior-year adjustment figure in the fund condition statement. (EBtr1, pp. 20-26.)

Brenneman reports that Lopez repeatedly told her the Department did not want to fix it at this time, given the general fund cuts it was taking, and was not receptive to either a one time correction or incremental corrections. Brenneman recalls that Saxby, like Lopez, felt that

correcting the discrepancy entailed a lot of risk that the Department would suffer additional cuts beyond the significant cut it was already facing. She recalled making the comment that all the DOF “has to do is go pull the Controller’s report, and they’ll see the numbers are off,” and states that Lopez and Saxby both acknowledged that was a possibility. (EBtr1, pp. 23-24, 27-29.) Brenneman also reports that in her conversations with Lopez and Saxby, and subsequently with Michael Harris, nobody ever indicated that perhaps some day when things got really bad the money might be used. Instead, she states that the only response she ever received was that they knew about the discrepancy and nothing was going to be done about it. (EBtr1, p. 73.)

b. Discussions with Kirk Sturm

Brenneman recalled that Kirk Sturm served as an interim deputy director of administrative services from October to December 2011, after Lopez left the position. She recalls providing Sturm with briefings about budget items in a number of executive committee meetings and in several smaller meetings with only herself, Saxby, and Sturm. (EBtr3, pp. 2-4.)

Brenneman did not specifically recall conversing with Sturm about the SPRF fund balance discrepancy and undisclosed funds. However, she believes she likely did brief him on the issue. Brenneman indicated she was confident she had informed Sturm, and stated that she “would have brought this to his attention.” Brenneman advised that she briefed Sturm on everything relating to the Department’s budgets and fund conditions, and that the undisclosed SPRF funds were a significant issue. Brenneman stated there was no reason why she wouldn’t have briefed Sturm about the discrepancy. (EBtr3, pp. 4-5.)

c. Discussions with Michael Harris; no discussion with Ruth Coleman

Brenneman stated she brought the matter to chief deputy director Michael Harris’s attention in May or June of 2011, a month or two after she had brought it to Lopez’s attention. Brenneman stated she believes Saxby was with her during a meeting with Harris when funding cuts were being discussed, and she recalls saying “oh, and by the way, you know we have a fund balance that’s not being reported in the Governor’s budget.” (EBtr1, pp. 20, 31-33.)

Brenneman reports that Harris acknowledged he was aware of the undisclosed SPRF funds by responding: “Yeah, I know about that.” Brenneman reports that Harris told her the same thing Lopez had; that if the Department revealed the monies, it ran the risk of having its general fund appropriation reduced even more. She also recalled Harris remarking that the \$20

million dollar fund balance discrepancy was due to an error that occurred long ago which had not been fixed, and that he made it clear nothing was going to be done about the discrepancy.

Brenneman stated that during the remainder of 2011 the subject of the discrepancy came up in her conversations with Harris three or four more times. (EBtr1, pp. 33-34, 63-64.)

Brenneman's statements reveal that Harris was the highest ranking official with whom she discussed the undisclosed SPRF monies. She stated that she did not have any discussion about it with former director Ruth Coleman. Brenneman states that she had not thought to do so because it appeared, based on her conversations with Harris and Lopez, that everybody knew about it, including Coleman. Brenneman acknowledged, however, that no one had ever directly advised her that Coleman was aware. (EBtr1, pp. 35-36.)

3. No indication any undisclosed SPRF funds were ever used

Brenneman stated that she did not like the fact that incorrect numbers were being reported and she wanted to correct the issue. However, she also did not perceive the issue as earth shattering since the bottom line was that the money was there, and was not being spent since there was no appropriation and authority to do so. Brenneman stated she did not sense that the matter was urgent since her supervisors clearly knew about it, and it had obviously existed for a period of years and her supervisors appeared perfectly comfortable with it. (EBtr1, pp. 38-42.)

Brenneman stated that, being new to the Department, she was not eager to be the one to inform the Governor of the twenty million dollars and perhaps then be credited with bringing about the additional general fund cut her supervisors were so worried about. She also noted that the correct SPRF balance was publicly posted on the SCO's website for anyone to see. She stated she is confident none of the money was diverted or spent, as there was no appropriation and authority to spend or move it. She was also confident it was not and could not be used by anyone for personal gain. (EBtr1, pp. 42-46.)

Lastly, Brenneman remarked that a certain amount of disparity is expected between balances reflected in year-end reports to the SCO and in budget documents going to the DOF, since the SCO utilizes cash accounting and the DOF requires accrual accounting. Brenneman also noted, however, that a discrepancy of the magnitude existing in the SPRF was unique in her experience. (EBtr1, pp. 81, 84-85.)

Off-Highway Vehicle Fund Balance Disparities

Brenneman believes that any disparate balances reported to the DOF and SCO for the Off-Highway Vehicle (OHV) fund are due to the different accounting methodologies required when reporting finances to the two entities. Brenneman further noted that loans have been made from the OHV fund to the general fund. She then recalled that a discrepancy in revenue reported to the DOF and SCO occurred the previous year due to an errant infusion of fuel tax credits to the OHV Fund. Brenneman advised that \$117 million was correctly reported as revenue in year-end cash statements to the SCO, but the monies should not have been received, so the revenue report was corrected accordingly in the budget documents submitted to the DOF. (EBtr1, pp. 93-95.)